

## **908 KAR 2:030. Board structure and operation; eligibility for state grants.**

RELATES TO: KRS 210.400, 210.410, 210.450

STATUTORY AUTHORITY: KRS 210.450, EO 2004-726

NECESSITY, FUNCTION, AND CONFORMITY: EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health and Family Services and placed the Department for Behavioral Health, Developmental and Intellectual Disabilities within the cabinet. KRS 210.450 authorizes the secretary of the cabinet to promulgate administrative regulations governing eligibility of community behavioral health, developmental and intellectual disability boards to receive state funds. This administrative regulation establishes the minimum eligibility requirements for receipt of state funds for community behavioral health, developmental and intellectual disability programs.

Section 1. Definitions. (1) "Board of directors" or "board" means the group of persons vested with the management of the affairs of the corporation regardless of the name by which the group is designated except as provided in Section 8 of this administrative regulation.

(2) "Director" means a member of the "board of directors."

(3) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments, including articles of merger.

(4) "Bylaws" means the codes or rules adopted for the administrative regulation or management of the affairs of the corporation regardless of the names by which the rules are designated.

Section 2. Requirements for Recognition. A nonprofit corporation requesting recognition from the Secretary of the Cabinet as a district behavioral health, developmental and intellectual disabilities board for the purpose of obtaining state funds, shall annually submit to the secretary, not later than the first day of April of the year preceding the fiscal year for which applicant requests recognition, an application approved by its board of directors, which contains documentation and agreements satisfying the following requirements:

(1) Articles of incorporation as a nonprofit corporation in compliance with Kentucky statutes;

(2) Written statement by the applicant that it shall provide those service prerequisites set forth in KRS 210.410, and that the services shall be available to each of the geographic catchment areas, as established by the Cabinet for Health and Family Services plan, in which the board proposed to provide service;

(3) Written agreements to operate in accordance with the administrative regulations and statutes affecting operations, and to comply with Title VI of the 1964 Federal Civil Rights Law; and

(4) Articles of Incorporation or corporate bylaws which meet the requirements of this administrative regulation as set forth in this subsection:

(a) A provision establishing the location of a principal office of business of the organization;

(b) A provision declaring the purposes of organization to include concern for behavioral health, developmental and intellectual disabilities, alcoholism, drug abuse, or addiction, and the implementation of all functions set forth in KRS 210.400 including that the board will act as administrator of the program; and

(c) A provision setting forth the organization, duties and powers of the board of directors.

(5) In the interim period between annual requests for recognition from the cabinet, the board shall submit, within ten (10) days after adoption, any additions, deletions, and changes in their articles of incorporation or corporate bylaws;

(6) Following the election of any officer(s) of the board or selection of any new directors the board shall submit to the Secretary of the Cabinet for Health and Family Services within ten (10) days the names and addresses of the above, whenever it shall occur;

(7) If an applicant is not in conformity with these requirements, the applicant may be authorized to

receive state funds for a probationary period upon assurance of the applicant that it shall bring its operations, bylaws and Articles of Incorporation into compliance with the required standards. The duration of the probationary period shall be set by the Secretary of the Cabinet for Health and Family Services.

Section 3. Membership Criteria for the Board. (1) All nonprofit behavioral health, developmental and intellectual disabilities boards shall be appointed in accordance with KRS 210.380 and applicable federal regulations.

(a) The provisions of paragraph (b) of this subsection notwithstanding, an individual board member may represent more than one (1) category provided, however, in no event shall an individual board member represent more than three (3) categories as specified in KRS 210.380 for the purpose of certifying board composition.

(b) A board shall be deemed representative of each of the categories, organizations or associations specified in KRS 210.380 provided there is on the board one (1) representative of each category.

(2) The board of a nonprofit corporation, serving as administrator and not established by a combination of either cities or counties shall number not less than fifteen (15) nor more than forty (40) members (except in the case of multiple catchment area boards). The members shall have demonstrated an interest in behavioral health, developmental and intellectual disabilities, developmental disabilities, alcoholism, drug abuse or addiction. At least one-fourth (1/4) of the members shall have indicated their primary interest as behavioral health, developmental and intellectual disabilities.

(3) All directors shall reside within the geographic catchment areas; directors shall be selected to provide at least one (1) representative from each county encompassed.

(4) If an applicant proposes to serve a district containing multiple catchment or grant areas, the membership requirement of the board of directors shall be as follows:

(a) Not less than fifteen (15) nor more than forty (40) members.

(b) All directors selected shall reside within and represent the respective geographic catchment areas.

(c) The board of directors shall contain at least one (1) director from each county in each catchment area.

(5) One-fourth (1/4) of the membership of the board of directors shall be elected annually. A maximum of two (2) consecutive four (4) year terms may be served by any director.

(6) No member of the immediate family of a board member shall be employed in a service funded by the board. Immediate family shall be construed to include a spouse, sons, daughters, mother, father, brothers, sisters, and grandparents. This provision shall not apply retroactively to the effective date of this administrative regulation, nor to any person employed prior to the appointment of the board member.

Section 4. Conduct of the Board. The board of directors shall:

(1) Meet at least twelve (12) times per year except that the regional board of a multiple catchment area shall meet at least six (6) times per year;

(2) Specify in the minutes of the board an annual meeting date for election of officers;

(3) Establish quorum requirements for meeting of the board of directors;

(4) Establish restrictions on compensation of board members including the prohibition against any board member contracting with the board to perform personal services; and

(5) Establish procedures for removal of directors who are excessively absent from board meetings.

(6) Establish procedures for filling of vacancies at times other than annual meetings including the role of the nominating committee.

Section 5. Election and Functioning of Officers. The selection and functioning of officers of the applicant shall include the following:

- (1) Designation of the officers of the applicant.
- (2) Specifications of the duties and terms of officers.
- (3) Specifications of the method by which officers shall be selected, including a requirement that all officers be elected from the membership of the board of directors.
- (4) Designation of dates for the assumption of duties by officers.
- (5) A restriction prohibiting any board member participating in any matter in which there is a potential conflict of interest or serving as chairman of more than one (1) of the standing committees.

Section 6. Standing Committees. The board shall establish the following standing committees (as a minimum), including a description of their functions and responsibilities, meeting schedules, and the procedures for designating their members:

(1) Executive committee: composed of at least twenty-five (25) percent of the membership of the board of directors and shall include all officers and chairmen of standing committees of the board.

(2) Finance committee: composed of at least the treasurer and three (3) other members of the board.

(3) Personnel committee: composed of at least twenty (20) percent of the membership of the board. When a board operates multiple catchment area programs, the personnel committee membership shall reflect as equal a representation of the catchment areas as is mathematically possible.

(4) Staff development and training committee: composed of not less than three (3) nor more than eleven (11) board members. The committee shall assure implementation and development of individual and team in-service training in behavioral health, developmental and intellectual disabilities, alcoholism and drug addiction-related disciplinary skills.

(5) At the discretion of the board, the personnel committee and the staff development and training committee may be combined into a single committee.

(6) Nominating committee: composed of not less than six (6) persons. The function and responsibility of this committee shall include ensuring public advertisement of the eligibility criteria and procedures for nomination for election to the board and the setting of time schedules for such public announcement. The committee shall present nominations for one-fourth (1/4) membership of the board (annually or biennially) and shall present nominations to fill vacancies as they occur. In addition to general nominating procedures and public advertising the nominating committee shall establish procedures providing for nominations by petition. Any person not placed in nomination by the committee but who is qualified, may be placed on the list of nominees by presenting a petition for nomination signed by twenty-five (25) registered voters of the region. Applicants shall be allowed sufficient time to prepare and execute petitions prior to the date of the election and after initial public advertising has been placed. The board shall vote on a petitioning nominee as well as on the slate placed nomination by the committee.

(7) Program planning and evaluation committee. In single catchment areas, the composition shall be at least four (4) board members. In multiple catchment areas, the composition shall be the chairmen of the catchment area boards and at least four (4) other board members. The committee shall function as the overall committee concerned with the efficacy of the existing program and the future service needs of the regional programs in behavioral health, developmental and intellectual disabilities, alcoholism and drug abuse education and treatment, and the relationship of the regional program to the regional community.

Section 7. Special and Ad Hoc Committees. Intermittently the board may establish special or ad hoc committees it shall deem advisable and shall specify the charge and function of the committees.

Section 8. Catchment Area Boards. If more than one (1) catchment area program shall be administered by a single board of directors, this board may provide for one (1) catchment area board for each geographic catchment area served. The catchment area board shall meet at least twelve (12) times per year. Upon provision for catchment area boards, the single board shall designate itself as the regional behavioral health, developmental and intellectual disabilities board and shall appoint an equal number of its members to each separate catchment area board. No more than twenty-five (25) percent of regional board members appointed to a catchment area board may reside outside of the catchment area. Each catchment area board shall, otherwise, be representative of the individuals who reside in the catchment area, and at least fifty (50) percent of the catchment area board members shall not be providers of health care. The catchment area board shall be responsible for establishing general policies for the catchment area program, approving the budget and expenditure of funds and approving the selection of the center director. The regional behavioral health, developmental and intellectual disabilities board shall be responsible for reviewing and approving the annual plan and budget prepared by a catchment area board and shall be responsible for all personnel policies, contractual obligations and insurance of the quality of direct patient services for the entire region. The catchment area board shall have authority and responsibility as may be delegated to it by the board. The authority and responsibility may include the following:

- (1) The general and specific functions and responsibilities of the catchment area board;
- (2) The process by which a representative catchment area board shall be selected and maintained;
- (3) The process by which appropriate training shall be made available to catchment area board members to enhance their effectiveness;
- (4) The organizational and administrative relationships between the catchment area board and the center director, the professional advisory council and any superordinate governing structure;
- (5) The procedures the catchment area board shall utilize to review the center program, the quality of its services and the results of center evaluation data;
- (6) The procedures the catchment area board shall utilize in reporting and disseminating to the public information on the center's programs and services; and
- (7) The procedures the catchment area board shall utilize to ensure that the governing body shall have adequate administrative support and capacity to carry out its functions.

Section 9. State and Federal Funding. The cabinet may provide state and federal funding to behavioral health, developmental and intellectual disabilities boards by contract. (Recodified from 902 KAR 6:030, 3-7-1989; Am. 20 Ky.R. 2259; 3-14-1994; TAm eff. 4-27-2016; Crt eff. 12-18-2019.)